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8 **IN THE UNITED STATES DISTRICT COURT**  
9 **FOR THE EASTERN DISTRICT OF CALIFORNIA**  
10

11 MIKE MORGAN,

12 Plaintiff,

13 v.

14 J. HALL,

15 Defendant.  
16

No. 2:24-CV-2395-DMC-P

ORDER

and

FINDINGS AND RECOMMENDATIONS

17 Plaintiff, a prisoner proceeding pro se, brings this civil rights action pursuant to  
18 42 U.S.C. § 1983. The Court's record reflect that Plaintiff is proceeding in another action in this  
19 Court based on virtually identical allegations. See Morgan v. Espinoza, et al., Eastern Dist. Cal.  
20 case no. 2:23-cv-1955-DAD-DMC-P.<sup>1</sup> Due to the duplicative nature of the present action, the  
21 Court will recommend that it be dismissed without prejudice. See Fed. R. Civ. P. 41(b); see also  
22 Adams v. Cal. Dep't of Health Servs., 487 F.3d 684, 688-89 (9th Cir. 2007) (plaintiffs generally  
23 have no right to maintain two separate actions involving the same subject matter at the same time  
24 in the same court and against the same defendant); overruled on other grounds by Taylor v.  
25 Sturgell, 553 U.S. 880, 904 (2008); Higgins v. Medina, 2007 WL 4258362, at \*1 (E.D. Cal. Dec.

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27 <sup>1</sup> The Court may take judicial notice of court records. See MGIC Indem. Co. v.  
28 Weisman, 803 F.2d 500, 505 (9th Cir. 1986); United States v. Wilson, 631 F.2d 118, 119 (9th Cir.  
1980).

3, 2007) (dismissing complaint as duplicative of complaint filed in separate action).

Based on the foregoing, the undersigned recommends orders and recommends as follows:

1. It is hereby ORDERED that the Clerk of the Court is directed to randomly assign a District Judge to this case.

2. It is RECOMMENDED that this action be dismissed without prejudice to Plaintiff's ability to pursue his claims in Morgan v. Espinoza, et al., E.D. Cal. case no. 2:23-cv-1955-DAD-DMC-P.

These findings and recommendations are submitted to the United States District Judge assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within 14 days after being served with these findings and recommendations, any party may file written objections with the Court. Responses to objections shall be filed within 14 days after service of objections. Failure to file objections within the specified time may waive the right to appeal. See Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

Dated: October 17, 2024



DENNIS M. COTA  
UNITED STATES MAGISTRATE JUDGE